

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

August 4, 2010

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 4th day of August, 2010, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Griffith, Kovach, and Chairman Dillingham

ABSENT: Councilmember Atkins

OTHERS PRESENT: Ms. Brenda Hall, City Clerk  
Mr. Doug Koscinski, Current Planning Manager  
Ms. Leah Messner, Assistant City Attorney  
Ms. Syndi Runyon, Administrative Assistant IV

### CONTINUED DISCUSSION REGARDING SOLICITOR/PEDDLER PERMITS.

Chairman Dillingham said Ms. Leah Messner, Assistant City Attorney, has distributed information on solicitor peddler ordinances from other communities and they varied in fees and requirements. At the previous meeting, Councilmembers had discussed having two types of permits and bonds, one for stationary vendors and one for door-to-door sales. Ms. Brenda Hall, City Clerk, had suggested that Staff conduct additional research from other cities that require bonds and background checks to provide the Committee with additional options. Councilmembers agreed and said they want to charge an appropriate permit fee without losing revenue and Ms. Hall said Staff would also research previous revenues for further review. Chairman Dillingham asked Staff to check if other cities charge additional fees based on the number of people being processed per permit.

Ms. Messner said the Committee had talked about extending the amount of time a vendor can sell, changing the fee amount, requiring a bond, and requiring background checks. She said Houston, Texas, was interesting in that they require a \$10,000 bond which can be used to pay damages for fraudulent and/or illegal conduct as well as unremitted sales tax. She said the duration of the permits varied with one year being the most common, some communities had tiered timeframes and fees, and others based fees on the type of activity, i.e., door-to-door versus stationary.

Ms. Messner said the City of Norman collected \$15,000 over the last two years with the largest fees from Sooner Bloomers and Wiggins Christmas Trees. Ms. Hall said the Committee had stated they did not want to lose revenue with the new requirements and while she felt the City could possibly lose revenue in some respects, she felt overall, more companies would get permits if they were allowed more time to sell than the current three day period per month. She felt there are many companies that sell without a permit because the City Clerk's Office receives numerous calls regarding permit requirements, and fewer licenses are issued. She said the Committee had talked about a six month permit for stationary vendors to cover the timeframe that Sooner Bloomers and Mr. Wiggins sell each year. She said Mr. Doug Koscinski, Current Planning Manager, reminded her that the City has other requirements in the Building Codes and six months is the longest amount of time a vendor can obtain a temporary building permit to set up the temporary facilities.

Ms. Hall said the Committee also had discussed requiring a \$250 bond for 30 days and \$500 bond for 60 days for door-to-door vendors and \$1,000 bond for stationary vendors, which she felt was reasonable and believed vendors would have no problem posting the bonds. She said most vendors inquire if bonds, background checks, and/or insurance are required to sell in Norman because other cities do require these and the vendors are accustomed to providing them. The City of Norman currently does not check to see if sales tax is being remitted by temporary vendors and requiring a bond would insure that if sales tax is not remitted, the bond will be forfeited.

Councilmember Griffith asked if Sooner Bloomers came twice a year and Ms. Hall said yes, they obtain two 45 day permits in the spring and fall. She said Mr. Wiggins sells Christmas trees from Thanksgiving weekend to a few days before Christmas and both vendors pay \$150.00 for the first three days and \$50 for each three day period thereafter. She said the additional time extension must be approved by the City Manager. She said if the City relaxed their time requirements, Sooner Bloomers would probably set up for longer periods of time. Councilmember Griffith asked if the City could charge an annual fee for Sooner Bloomers and Ms. Hall said that would not be possible because the temporary building permit issued for the tent is only good for six months and they do not meet requirements, i.e. facade and bathroom, required for permanent facilities.

The Committee discussed door-to-door requirements and felt background checks should be required and discussed the criteria to be used. Ms. Hall said the City could mirror language used for licensing taxi drivers such as no felony conviction within a five year period, etc. Councilmembers agreed and felt crimes of moral turpitude constituted more of a reason for denial than a ten year old driving under the influence conviction. Councilmembers were also concerned about drivers for companies that drop off groups of people in an area to sell door-to-door and suggested they carry a Commercial Drivers License (CDL). Councilmember Kovach asked Ms. Messner if she knew of other cities requiring this and she said no, but she would research CDL requirements in Oklahoma for the Committee's review.

Councilmember Kovach asked if companies that provide a service such as tree trimming or roofing needed a permit and Ms. Hall said yes, if they are knocking doors, but they can distribute advertising flyers without a permit. She said local companies that have an office in Norman are not required to have a permit. Councilmember Kovach felt that companies offering a service should submit bonds or insurance in case of property damage or accidents. Councilmembers also felt companies should carry adequate insurance and Ms. Messner said the bond submitted could be used for any property damage.

Councilmember Griffith asked if all door-to-door solicitors are issued a badge and Ms. Hall said yes, and each person is given a copy of the paper license issued in case their badge is lost or destroyed. Chairman Dillingham suggested that, groups be required to pay an additional fee per person because of Staff time involved in making badges, copying licenses, reviewing background checks, etc.

Councilmember Kovach asked about the protocol for residences with a "No Soliciting" sign and Ms. Hall said solicitors are instructed to bypass those residences. He asked if there were any penalties if they did knock on those doors and Ms. Hall said the homeowner can file a trespassing complaint, but there is no recourse stipulated in the ordinance. Councilmember Kovach asked if the City could revoke a company's license if they received three citizen complaints and Ms. Hall said the City has an administrative policy for suspending or revoking an annual license if there are three convictions through Municipal Court for violations of the ordinances within a one year period. She said solicitors are different as their licenses are not annual, but if complaints are received, the company is verbally warned that if the City receives further complaints, the company is subject to denial of future permits. Ms. Hall said language could be included similar to that in the Special Events Ordinance that states if a company or person does not comply with all regulations, no further permits will be issued and Chairman Dillingham requested this be done.

Ms. Messner asked the Committee about the amount of the bonds and Councilmembers felt that \$10,000 minimum surety bond should be required. Councilmember Kovach suggested varying the amount by the activity, but Ms. Messner said that constitutes picking and choosing. Ms. Hall asked if bond amounts could vary for selling services versus selling a product and Ms. Messner said she would have to research the legalities. Chairman Dillingham suggested requiring proof of insurance in the minimum amount of \$1,000,000 for vendors selling a service and Councilmembers agreed.

Councilmember Kovach said he would like to have penalties for persons or companies that sell without obtaining the permit. Ms. Hall said, currently, a Police Officer will warn the sellers that they need a permit and direct them to cease sales until a permit is obtained. She said legitimate companies will comply. She said if the Police have to address the same company a second time, they will issue a citation and they are taken to Municipal Court and held until the fine is paid. She said the City's goal is compliance so a company or person is usually not penalized for not getting the permit prior to selling. Ms. Hall said there are criteria in the Special Event ordinance for denial or revocation of a license that could be used in the solicitor ordinance.

Councilmember Kovach suggested an educational component be included with the approval of a new ordinance and Chairman Dillingham agreed. Councilmembers suggested placing information on the City website and Channel 20. She said it would be important to get the information out annually. Ms. Hall said Staff would mail a copy of the ordinance to those solicitor/peddler that are currently obtaining licenses from the City on a regular basis.

The Committee discussed different requirements for non-profit entities and Ms. Messner said the City cannot discriminate. Chairman Dillingham asked Ms. Messner to check if any other city has attempted to permit non-profits differently than other businesses.

Chairman Dillingham felt the general consensus of the Committee is to require bonds, background checks, and tiered selling periods such as 30 day or 60 day permits for door-to-door vendors and stationary vendors can obtain permits not to exceed six months per calendar year. Councilmembers felt that groups of sellers should pay \$100 per 30 day permit plus \$50 per person and \$200 per 60 day permit plus \$100 per person. Chairman Dillingham asked Ms. Messner to draft an ordinance amendment for the next Oversight Committee meeting for review. Ms. Hall felt that stationary vendors should be able to apply for 30 day permits up to six months per calendar year and the City could charge for 30 day increments and Councilmembers Kovach suggested \$500 for a 30 day stationary permit and Councilmembers agreed.

The Committee also discussed OU game days vendors that do not fall under the Special Event umbrella and felt a six month permit for \$500 would be appropriate stipulating the dates of sales (game days) on the permits. They felt this would cover game day sales without losing revenue or promoting prolonged continuous sales.

The Committee talked about Temporary Food permits and felt that temporary food and solicitor peddler permits requirements need to be consistent and no recommendations to Council would be forwarded until both permit requirements have been reviewed.

Items submitted for the record

1. Memorandum dated July 26, 2010, from Leah Messner, Assistant City Attorney, through Jeff Bryant, City Attorney, to City Council Oversight Committee, Councilmember Atkins, Councilmember Dillingham, Councilmember Griffith, Councilmember Kovach
2. Comparison chart of other cities

MISCELLANEOUS DISCUSSION.

Chairman Dillingham said the Committee will discuss Enforcement Authority recommendations and dumpster set-backs in residential areas in September and continue the solicitor permit discussions in October along with temporary food and mobile food permits.

The meeting adjourned at 6:50 p.m.